



UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

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PER 06/07/

UNITED STATES
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicants: Depui et al.
Application No.: 10/620,000
Filed: 07/14/03
For: Oral Pharmaceutical Dosage Forms
Comprising a Proton Pump Inhibitor and
a NSAID

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,533.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/ss/ Michael P. Tierney
MICHAEL P. TIERNEY
Administrative Patent Judge

1 Paper 1
2
3 Mail Stop Interference
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8 Filed February 6, 2007
9
10 UNITED STATES PATENT AND TRADEMARK OFFICE
11 BEFORE THE BOARD OF PATENT APPEALS
12 AND INTERFERENCES
13
14 ANDRX LABS, LLC
15 Junior Party
16 (U.S. Patent 6,869,615),
17
18 v.
19
20 ASTRAZENECA AB
21 Senior Party
22 (U.S. Application 10/620,000).
23 Patent Interference No. 105,533 (MPT)
24 (Technology Center 1600)
25
26
27
28 DECLARATION - Bd.R. 203(b)¹
29
30 Part A. Declaration of interference
31 An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.
32 Details of the application(s), patent (if any), reissue application (if any), count(s) and claims
33 designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of
34 this DECLARATION.
35 Part B. Judge managing the interference
36 Administrative Patent Judge Michael P. Tierney has been designated to manage the
37 interference. Bd. R. 104(a).

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¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 Part C. Standing order

2 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION.

3 The STANDING ORDER applies to this interference.

4 Part D. Initial conference call

5 A telephone conference call to discuss the interference is set for **2:00 p.m. on March 28,**

6 **2007** (the Board will initiate the call).

7 No later than four business days prior to the conference call, each party shall file and

8 serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120

9 & 204) the party intends to file.

10 A sample schedule for taking action during the motion phase appears as Form 2 in the

11 STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference

12 call and to agree on dates for taking action. A typical motion period lasts approximately eight (8)

13 months. Counsel should be prepared to justify any request for a shorter or longer period.

1 Part E. Identification and order of the parties

2 Junior Party

3 Named inventors: CHIH-MING CHEN, DAVIE, FLORIDA
4 UNCHALEE KOSITPRAPA, DAVIE, FLORIDA
5
6 Involved Patent: U.S. Patent 6,869,615, issued March 22, 2005, based upon
7 U.S. Application 10/282,820, filed October 28, 2002.
8
9 Title: PHARMACEUTICAL FORMULATIONS CONTAINING
10 A NON-STEROIDAL ANTIINFLAMMATORY DRUG
11 AND A PROTON PUMP INHIBITOR
12
13 Assignee: ANDRX LABS, LLC
14

15 Senior Party

16 Named Inventors: HELENE DEPUI, SWEDEN
17 PER LUNDBERG, SWEDEN
18
19 Involved Application: U.S. Application 10/620,000, filed July 14, 2003
20
21 Title: ORAL PHARMACEUTICAL DOSAGE FORMS
22 COMPRISING A PROTON PUMP INHIBITOR AND A
23 NSAID
24
25 Assignee: ASTRAZENECA AB

26 The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned
27 exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for
28 initiating settlement discussions. SO ¶ 126.1.

29

Part F. Count and claims of the parties

Count 1

Claim 1 of U.S. Application 10/620,000 or Claim 1 of U.S. Patent 6,869,615.

The claims of the parties are:

AstraZeneca (Depui), U.S. Application 10/620,000: 1, 4-14, 22, 25-28, 33-34, 37-45

Andrx (Chen), U.S. Patent 6,869,615: 1-26

The claims of the parties which correspond to Count 1 are:

AstraZeneca (Depui), U.S. Application 10/620,000: 1, 4-14, 22, 25-28, 33-34, 37-45

Andrx (Chen), U.S. Patent 6,869,615: 1-9 and 20-26

The claims of the parties which do not correspond to Count 1, and therefore are not

involved in the interference, are:

AstraZeneca (Depui), U.S. Application 10/620,000: None

Andrx (Chen), U.S. Patent 6,869,615: 10-19

The parties are accorded the following 35 U.S.C. § 102(g) priority benefit for Count 1:

Andrx is accorded benefit of the filing dates of the following applications:

- i) U.S. Patent 6,544,556, issued on April 8, 2003, based upon U.S. Application 09/659,222, filed September 11, 2000.

1 AstraZeneca is accorded benefit of the filing date of the following application:

- 2 i) U.S. Patent 6,613,354, issued September 2, 2003, based upon U.S.
3 Application 10/090,882, filed March 4, 2002.
- 4
- 5 ii) U.S. Patent 6,365,184, issued April 2, 2002, based upon U.S.
6 Application 09/471,958, filed December 23, 1999.
- 7
- 8 iii) U.S. Application 08/793,078, filed February 13, 1997.
- 9 iv) PCT/SE96/01735, filed December 20, 1996
- 10 v) Sweden 9600070-8, filed January 8, 1996.

11

12

Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see SO

¶ 106.1.1:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ANDRX LABS, LLC

Junior Party

(U.S. Patent 6,869,615),

V.

ASTRAZENECA AB

Senior Party

(U.S. Application 10/620,000).

Patent Interference No. 105,533 (MPT)

(Technology Center 1600)

Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the

request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle

around the patents and applications for which a copy of a file wrapper is requested.

/Michael P. Tierney/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER

Copy U.S. Patent 6,869,615

Copy of claims of 10/620,000

Revised 3 January 2006

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3
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